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SENATE BILL 2361

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 71, relative to payment of TennCare premiums.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

Section 71-5-191. (a) The commissioner of health's authorized representative is authorized to issue an administrative order to direct an employer of a TennCare enrollee who is obligated to pay a premium under the terms of the TennCare program to withhold the required premium for the enrollee from the enrollee's wages and to remit such premium to the state. Legal counsel for the department of health shall review every such order or subpoena issued under this section before it is issued. Notice of the order shall be provided by the department to the enrollee and the employer. The department's authority under this section is statewide. The department is authorized to issue administrative subpoenas to implement and enforce the provisions of this act.

(b)(1) An employer, as such term is defined in Section 50-7-205, shall inquire of every new hire as to whether the new hire is a TennCare enrollee. If the new hire responds that the new hire is a TennCare enrollee, the employer shall complete a form furnished by the bureau of TennCare concerning the new hire and return the form to the bureau of TennCare. The bureau shall determine whether the new hire is an enrollee who is required to pay a premium under the terms of the TennCare program and, if so, the amount of the premium. For those hires required to pay a premium, the commissioner's representative shall issue an administrative order under subsection (a).

(2) When an enrollee subject to an administrative order for withholding of premiums under this section ceases to be a TennCare enrollee required to pay premiums, the enrollee shall inform the department on a form to be provided by the department that such withholding is no longer necessary and the department shall determine whether any withholding continues to be necessary within ten (10) business days. If the order is no longer necessary, then the commissioner's representative shall issue a new order terminating the withholding of premium. Within ten (10) business days after issuing the order terminating the withholding, the department shall refund any funds inappropriately remitted to it under this section.

(3) When a change in income or other circumstances warrant modification of an order, an enrollee may petition the department on a form provided by the department for a modification of any withholding order in effect. The department shall investigate such requests and adjust any order when modification is appropriate within thirty (30) days.

(c) It shall be an offense for a new hire to misrepresent his or her TennCare enrollment status to an employer in response to an inquiry mandated by this section. A violation as a first offense shall be a Class C misdemeanor. A violation for a second offence shall be a Class B misdemeanor. A violation for third and subsequent offenses shall be a Class A misdemeanor.

(d) The commissioner shall develop procedures by rule for issuing, reviewing, modifying and terminating orders under this section. The commissioner shall also establish by rule an

appeals mechanism for enrollees or employers aggrieved under this section. Judicial review of department action under this section shall be pursuant to Title 4, Chapter 5.

(e) The department may enforce its orders by appropriate petition or motion in the chancery court of the county where the enrollee resides or where the employer employs the enrollee.

(f) An employer shall have sixty (60) days from the effective date of this act to inquire concerning the TennCare enrollment status of existing employees and file the form required by subsection (b). The department shall then determine the need for withholding orders for those employees as required by subsection (b).

SECTION 2. The commissioner of health is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect July 1, 2000, the public welfare requiring it, and this act shall apply to hiring decisions made on or after that date.